



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2020-0341; FRL-8747-01-R9]

#### **Air Plan Approval; California; South Coast Air Quality Management District**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) from marine and pleasure craft coating operations. We are proposing to approve a local rule and a rule rescission to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Comments must be received on or before **[Insert date 30 days after the date of publication in the *Federal Register*]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2020-0341 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER**

**INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Arnold Lazarus, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3024 or by email at [Lazarus.Arnold@epa.gov](mailto:Lazarus.Arnold@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to the EPA.

## Table of Contents

- I. The State’s Submittal
  - A. What rules did the State submit?
  - B. Are there other versions of these rules?
  - C. What is the purpose of the submitted rule and rule rescission?
- II. The EPA’s Evaluation and Action
  - A. How is the EPA evaluating the rule and rule rescission?
  - B. Do the rule and rule rescission meet the evaluation criteria?
  - C. The EPA’s recommendations to further improve the rule
  - D. Public comment and proposed action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

## I. The State’s Submittal

### A. *What rules did the State submit?*

Table 1 lists the rule revisions addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULES

Local Agency	Rule #	Rule Title	Amended	Rescinded	Submitted
SCAQMD	1106	Marine and Pleasure Craft Coatings	5/3/2019		2/19/2020

Local Agency	Rule #	Rule Title	Amended	Rescinded	Submitted
SCAQMD	1106.1	Pleasure Craft Coating Operations		5/3/2019	2/19/2020

On August 19, 2020 the submittal for SCAQMD Rule 1106 and the rescission of Rule 1106.1 was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

*B. Are there other versions of these rules?*

We approved an earlier version of SCAQMD Rule 1106 into the SIP on July 14, 1995<sup>1</sup> and we approved SCAQMD Rule 1106.1 into the SIP on August 31, 1999<sup>2</sup>. The SCAQMD adopted revisions to the SIP-approved versions of these rules on May 3, 2019 and CARB submitted them to us on February 19, 2020.

*C. What is the purpose of the submitted rule and rule rescission?*

Emissions of VOCs contribute to the production of ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Rule 1106 regulates VOC emissions from all marine and pleasure craft coating operations, including coatings for boats, ships and their appurtenances, buoys, and oil drilling rigs intended for the marine environment, and applies to any person who solicits the application of any Marine or Pleasure Craft Coating and any associated solvent used with a Marine or Pleasure Craft Coating within the South Coast AQMD Jurisdiction.

The rule was amended to include pleasure craft coating operations, lower the VOC content limit of a number of existing coatings, and add five coatings to the specialty coating list. Rule 1106.1, Pleasure Craft Coating Operations, has been locally rescinded; however, all of the coatings limits in Rule 1106.1 are now covered by Rule 1106. The EPA's technical support

---

<sup>1</sup> 60 FR 36227.

<sup>2</sup> 64 FR 47392

document (TSD) has more information about this rule and rule rescission.

## **II. The EPA's Evaluation and Action**

### *A. How is the EPA evaluating the rule and rule rescission?*

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require reasonably available control technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOC in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). The SCAQMD regulates an ozone nonattainment area classified as Extreme for the 1997, 2008, and 2015 8-Hour Ozone National Ambient Air Quality Standards (40 CFR 81.305). Rule 1106 is covered by “Control Techniques Guidelines for Shipbuilding and Ship Repair Operations<sup>3</sup>” and “Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings” (EPA-453/R-08-003, September 2008). Therefore, this rule must implement RACT.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation, and rule stringency requirements for the applicable criteria pollutants include the following:

- 1 "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
- 2 “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).

---

<sup>3</sup> 61 FR 44050 (August 27, 1996).

3. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the Little Bluebook).
4. “Control Techniques Guidelines for Shipbuilding and Ship Repair Operations” (61 FR 44050), August 27, 1996.
5. “Alternative Control Techniques Document: Surface Coating Operations at Shipbuilding and Ship Repair Facilities” (EPA 453/R-94-032, April 1994).
6. “Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings” (EPA-453/R-08-003, September 2008).

B. *Do the rule and rule rescission meet the evaluation criteria?*

This submittal of the rule and rule rescission meets CAA requirements and is consistent with relevant guidance regarding enforceability, RACT, and SIP revisions. Specifically, the rule requirements sufficiently ensure that affected sources and regulators can consistently evaluate and determine compliance with Rule 1106. Additionally, our analysis finds that Rule 1106 represents RACT for Marine or Pleasure Craft Coatings because it has VOC content limits consistent with limits adopted in other districts and the applicable CTGs. We also found that the limits in Rule 1106 and the rescinded Rule 1106.1 are identical. Lastly, Rule 1106 will not interfere with any applicable requirements of the CAA. The TSD has more information on our evaluation.

C. *The EPA’s recommendations to further improve the rule*

The EPA recommends amendments for consideration by the District the next time Rule 1106 is revised. Specifically, our TSD recommends removing the category “Metallic Heat Resistant Coating” and moving the category Elastomeric Adhesive to Rule 1168 - Adhesive and Sealant Applications. Our TSD has more information regarding these recommendations.

D. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule and rule rescission because they fulfill all relevant requirements. We will accept

comments from the public on this proposal until [**Insert date 30 days after date of publication in the *Federal Register***]. If we take final action to approve the submitted rule, our final action will incorporate this rule and rule rescission into the federally enforceable SIP.

### **III. Incorporation by Reference**

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference SCAQMD Rule 1106 and the rescission of SCAQMD Rule 1106.1 described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

## **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

**AUTHORITY:** 42 U.S.C. 7401 *et seq.*

Dated: August 12, 2021.

Deborah Jordan,  
*Acting Regional Administrator,*  
*Region IX.*

[FR Doc. 2021-17957 Filed: 8/23/2021 8:45 am; Publication Date: 8/24/2021]